

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: OTTOFY

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EXAMINER: MCCLELLAN, J.

FILED: 11/10/2003

ART UNIT: 3714

TITLE: SYSTEM AND METHOD FOR PLAYING A TEAM GAMING  
TOURNAMENT

Commissioner for Patents  
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I hereby certify that on the 27th day of July, 2010, this correspondence is being  
filed electronically on EFS-Web.

/Jeffrey Weiss/  
Jeffrey Weiss

AMENDMENT

Dear Sir:

This Amendment is in response to the May 28, 2010 Office Action following the  
decision by the Board of Appeals concerning the above-identified application. Remarks  
follow the Amendments to the Claims.

## CLAIM AMENDMENTS

Claims 1-11 (Canceled).

Claim 12 (Currently amended) A server for providing a computer gaming tournament, comprising, in combination:

a memory for storing program instructions and data;

a processor coupled to said memory for executing said program instructions, wherein said program instructions include program instructions for:

displaying a browser window;

displaying a live game of a poker gaming tournament in said browser window;

permitting a plurality of users to enter said game of said gaming tournament to play against one another;

forming a plurality of teams of at least one user from said plurality of users entered in said gaming tournament;

receiving indications of user input from a plurality of user computers; [[and]]

calculating a placement finish for each said plurality of teams in said gaming tournament in conformity with a predetermined formula having dependence on both a number of users on each said plurality of teams and a performance of each said plurality of users[[.]];

assigning a finish number to each said plurality of players, said finish number being equivalent to an order that each said plurality of users is eliminated from said tournament relative to other said plurality of users;

assigning a finish equalization number to each said plurality of teams, said finish equalization number being equivalent to a maximum number of users allowed per each said plurality of teams divided by an actual number of users per each said plurality of teams;

assigning an equalization number to each said plurality of users, said equalization number being equivalent to a multiplication of said finish number of each said plurality of users of a team and said finish equalization number of said team; and

calculating a placement finish, wherein each said plurality of teams having a placement finish equivalent to a sum of said equalization number for each of said plurality of users of each said plurality of teams, wherein a higher number corresponds to a higher team placement finish.

Claim 13 (Canceled).

Claim 14 (Currently amended) The server of claim ~~[[13]]~~12 wherein said program instructions further comprise program instructions for assigning said finish number only to each said plurality of users finishing in a predetermined number of places in said gaming tournament.

Claim 15 (Previously presented) The server of claim 12 wherein said program instructions further comprise program instructions for:

receiving an entrance fee from at least one of said plurality of users and said plurality of teams in order for each said plurality of teams to enter said gaming tournament; and

paying at least one of said plurality of teams and at least one of said plurality of users an award in conformity with at least one of a performance of each said plurality of teams and a performance of each said plurality of users, said award in conformity with a percentage of a total amount of said entrance fees received.

Claim 16 (Original) The server of claim 15 wherein said program instructions further comprise program instructions for:

paying a predetermined amount of said percentage as an award to teams having at least two users; and

paying a predetermined amount of said percentage as an award to teams having one user.

Claim 17 (Canceled).

Claim 18 (Previously presented) The server of claim 12 wherein said program instructions further comprise program instructions for said poker tournament comprising at least one poker game of at least one of Texas Hold'em, Seven Card Stud Hi, Seven Card Stud Hi/Low, Five Card Stud, Omaha Hi, and Omaha Hi/Low.

Claim 19 (Original) The server of claim 12 wherein said program instructions further comprise program instructions for requiring each said plurality of teams to comprise a predetermined minimum number of users.

Claim 20 (Original) The server of claim 12 wherein said program instructions further comprise program instructions for limiting each said plurality of teams to a predetermined maximum number of users.

## REMARKS

### II. Introduction

Claims 12, 14-16 and 18-20 are pending in the present application. As rendered in the Board of Appeals decision, Claims 1-5 and 7-10 were rejected under 35 U.S.C § 101 as failing to recite patentable subject matter. Claims 11, 12, 15-16 and 18 were rejected under 35 U.S.C § 102(b) over U.S. Patent No. 6,142,872 to Walker. Claims 19 and 20 were rejected as being unpatentable under 35 U.S.C §103(a) over Walker and in view of a person with ordinary skill in the art. Claims 13 and 14 were shown to be erroneously rejected by the Examiner under 35 U.S.C § 103(a) over Walker in view of U.S. Patent No. 5755621 to Marks.

Applicant maintains that each and every rejection has been fully answered in the remarks below and asserts that the current application is in condition for allowance.

### II. 35 U.S.C. § 101

Claims 1-5 and 7-10 were rejected under 35 U.S.C § 101 as failing to recite patentable subject matter. In particular, the Claims were (1) not tied to a particular machine or apparatus, or (2) did not transform a particular article into a different state or thing. *In re Bilski*, 545 F.3d 943, 961-62 (Fed. Cir. 2008). The Supreme Court has ruled that while the machine-or-transformation test is a useful and important clue for determining whether some claimed inventions are processes under § 101, it is not the sole test for deciding whether an invention is a patent-eligible “process.” In light of this recent decision, Applicant asserts that pending Claims 1-5 and 7-10 are

directed to patentable subject matter even if it does not satisfy the test set forth in *In re Bilski*. Nevertheless, to expedite prosecution of the present application, Applicant has canceled Claims 1-5 and 7-10.

III. 35 U.S.C. § 103(a)

In the decision by the Board of Appeals, it was found that the Applicant had shown that the Examiner erred in rejecting dependent Claims 13 and 14 under 35 U.S.C. §103(a) over Walker in view of Marks. In particular, it was found that Marks did not disclose finishing numbers reflecting a win/loss order, or equalization numbers. The Board of Appeals maintained that Marks at the Examiner's cited section only disclosed a server computer determining the appropriate ranking for all players as each round progresses without mentioning particulars such as how the rankings are calculated. The Board of Appeals then stated that the Examiner erred in rejecting Claims 13 and 14.

Applicant has amended independent Claim 12 to incorporate the elements of Claim 13. For the reasons provided within the Board of Appeals decision, Applicant respectfully submits that independent Claim 12 is not obvious and is patentable over the cited prior art. Claims 14-16 and 18-20 depend directly or indirectly on independent Claim 12. Applicant respectfully submits that for the same reasons that independent Claim 12 is patentably distinguishable from the prior art, Claims 14-16 and 18-20 are also patentably distinguishable.

#### IV. Conclusion

Applicant respectfully submits that this Amendment, including any amendments to the Claims and in view of the Remarks provided in connected therewith, fully responds to all aspects of the Examiner's rejections tendered in the Office Action. For all the foregoing reasons, Applicant respectfully submits that they have demonstrated that the above-identified patent application, including pending Claims 12, 14-16 and 18-20 are patentable over the cited prior art and respectfully solicit the issuance of a Notice of Allowance with respect thereto.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the below-listed number.

If there are any additional fees incurred by this Amendment, including any Claim and/or Extension fees, please deduct them from our Deposit Account No. 23-0830.

Dated: July 27, 2010

Respectfully submitted,

/Jeffrey Weiss/

Jeffrey Weiss, Reg. No. 45,207